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8
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10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Petition to Revoke Probation
13 Against:

Case No. 2002-101

14 BARBARA ANN TRUJILLO

**PETITION TO REVOKE
PROBATION**

15 6550 Ponto Drive
Space 125
16 Carlsbad, CA 92011

17 Registered Nurse License No. 282446

18 Respondent.

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20 Complainant alleges:

21 **PARTIES**

22 1. Ruth Ann Terry, M.P.H, R.N (Complainant) brings this Petition to Revoke
23 Probation solely in her official capacity as the Executive Officer of the Board of Registered
24 Nursing, Department of Consumer Affairs.

25 2. On or about August 31, 1997, the Board of Registered Nursing issued RN
26 Number 282446 to Barbara Ann Trujillo (Respondent). The license will expire on October 31,
27 2008, unless renewed.

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3. In a disciplinary action entitled "In the Matter of Petition to Revoke Probation Against Barbara Ann Trujillo," Case No. 2002-101, the Board of Registered Nursing, issued a decision, effective July 10, 2003, in which Respondent's Registered Nurse License was revoked. However, the revocation was stayed and Respondent's license was placed on probation for a period of three (3) years with certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

JURISDICTION

4. This Petition to Revoke Probation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

3. Section 2750 of the Business and Professions Code ("Code") provides, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 of the Nursing Practice Act (Bus. & Prof. Code, § 2700 et seq.).

4. Section 2761(a) of the Code states that the Board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for unprofessional conduct.

5. Section 2764 of the Code provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

6. Section 125.3 of the Code provides that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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1 **FIRST CAUSE TO REVOKE PROBATION**

2 **(Failure to Comply with Probation Program)**

3 7. The Decision in Accusation Case No. 2002-101, against Barbara Ann
4 Trujillo, revoked Respondent's Registered Nurse License. However, the revocation was stayed
5 and Respondent's license was placed on probation for a period of three (3) years with certain
6 terms and conditions.

7 8. Term and Condition two (2) of Respondent's probation, states:

8 "Respondent shall fully comply with the terms and conditions of the Probation
9 Program established by the Board and cooperate with representatives of the Board in its
10 monitoring and investigation of Respondent's compliance with the Probation Program.
11 Respondent shall inform the Board in writing within no more than 15 days of any address change
12 and shall at all times maintain an active, current license status with the Board, including during
13 any period of suspension."

14 9. Respondent's probation is subject to revocation because she failed to
15 comply with Probation Term and Condition two (2), referenced above. The facts and
16 circumstances regarding this violation are as follows:

17 Respondent failed to fully comply with the terms and conditions of her probation
18 by failing to comply with conditions two (2), six (6), and fourteen (14).

19 **SECOND CAUSE TO REVOKE PROBATION**

20 **(Failure to Work in a Board Approved RN Position for Required Time)**

21 10. Term and Condition six (6) of Respondent's probation, states:

22 "Respondent, during the period of probation, shall engage in the practice of
23 registered nursing in California for a minimum of 24 hours per week for six (6) consecutive
24 months or as determined by the Board.

25 For purposes of compliance with the section, "engage in the practice of registered
26 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
27 work in any non-direct patient care position that requires licensure as a registered nurse.

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1 The Board may require that advanced practice nurses engage in advanced practice
2 nursing for a minimum of 24 hours per week for six (6) consecutive months or as determined by
3 the Board.

4 If Respondent has not complied with this condition during the probationary term,
5 and Respondent has presented sufficient documentation of her good faith efforts to comply with
6 this condition, and if no other conditions have been violated, the Board, in its discretion, may
7 grant an extension of Respondent's probation period up to one year without further hearing in
8 order to comply with this condition."

9 11. Respondent's probation is subject to revocation because she failed to
10 comply with Probation Term and Condition six (6), referenced above. The facts and
11 circumstances regarding this violation are as follows:

12 Respondent failed to function as a registered nurse by failing to work in a Board
13 approved Registered Nurse position for six (6) consecutive months at a minimum of twenty-four
14 (24) hours per week.

15 **THIRD CAUSE TO REVOKE PROBATION**

16 **(Failed to Participate in Treatment/Rehabilitation)**

17 12. Term and Condition fourteen (14) of Respondent's probation, states:

18 "Respondent, at her expense, shall successfully complete during the probationary
19 period or shall have successfully completed prior to commencement of probation at a Board-
20 approved treatment/rehabilitation program of at least six (6) months. As required, reports shall
21 be submitted by the program on forms provided by the Board. If Respondent has not completed
22 a Board-approved treatment/rehabilitation program prior to commencement of probation,
23 Respondent, within a reasonable time approved by the Board, shall be enrolled in a program. If a
24 program is not successfully completed within a reasonable time approved by the Board, the
25 Board shall consider Respondent in violation of probation.

26 Based on Probation Program recommendation, each week Respondent shall be
27 required to attend at least one, but no more than five 12-step recovery meetings or equivalent
28 (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as

1 approved and directed by the Board. If a nurse support group is not available, an additional 12-
2 step meeting or equivalent shall be added. Respondent shall submit dated and signed
3 documentation confirming such attendance to the Board during the entire period of probation.
4 Respondent shall continue with the recovery plan recommended by the treatment/rehabilitation
5 program or a licensed mental health examiner and/or other ongoing recovery groups.”

6 13. Respondent’s probation is subject to revocation because she failed to
7 comply with Probation Term and Condition fourteen (14), referenced above. The facts and
8 circumstances regarding this violation are as follows:

9 Respondent failed to participate in treatment/rehabilitation by failing to attend her
10 required NSG meetings from February 2007 to present.

11 **DISCIPLINE CONSIDERATIONS**

12 14. To determine the degree of discipline, if any, to be imposed on
13 Respondent, Complainant alleges that in a prior disciplinary action in the Accusation against
14 Barbara Ann Trujillo before the Board of Registered Nursing in Case No. 2002-101,
15 Respondent’s license was disciplined with revocation stayed and placed on three year probation
16 as well as other terms and conditions. Respondent was disciplined for obtaining, possessing, and
17 self-administering Hydrocodone (Vicodin) and Percocet (Oxycodone) without a prescription,
18 while employed as a registered nurse at Tri-City Medical Center. Respondent also made false,
19 grossly incorrect, and grossly inconsistent or unintelligible entries in hospital patient records
20 pertaining to Hydrocodone (Vicodin) and Percocet (Oxycodone) for three (3) patients on January
21 1, 2, 24, 25, and 26, 1998. The decision had an effective date of July 10, 2003, and is now final
22 and is incorporated by reference as if fully set forth.

23 **PRAYER**

24 WHEREFORE, Complainant requests that a hearing be held on the matters herein
25 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:


26 1. Revoking the probation that was granted by the Board of Registered
27 Nursing in Case No. 2002-101 and imposing the disciplinary order that was stayed thereby
28 revoking Registered Nurse License No. 282446 issued to Barbara Ann Trujillo;

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2. Revoking or suspending Registered Nurse License No. 282446, issued to
Barbara Ann Trujillo;

3. Taking such other and further action as deemed necessary and proper.

DATED: 7/17/07


RUTH ANN TERRY, M.P.H, R.N
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SD2007801170
Trujillo.Petition to Revoke Probation.wpd

Exhibit A

Decision and Order

Board of Registered Nursing Case No. 2002-101

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

BARBARA ANN TRUJILLO
6550 Ponto Drive, Space 125
Carlsbad, CA 92009

Registered Nurse License No. 282446

Respondent.

Case No. 2002-101

OAH No. L-2002040054

DECISION AND ORDER

The attached Revised Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on JULY 10, 2003.

It is so ORDERED JUNE 10, 2003.

Sandra L. Erickson

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

BILL LOCKYER, Attorney General
of the State of California
KAREN L. GORDON, State Bar No. 137969
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Attorneys for Complainant

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

BARBARA ANN TRUJILLO
6550 Ponto Drive, Space 125
Carlsbad, CA 92009

Registered Nurse License No. 282446

Respondent.

Case No. 2002-101

OAH No. L-2002040054

REVISED STIPULATED
SETTLEMENT AND
DISCIPLINARY ORDER

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibility of the Board of Registered Nursing of the Department of Consumer Affairs, the parties hereby agree to the following Revised Stipulated Settlement and Disciplinary Order which will be submitted to the Board for approval and adoption as the final disposition of the Accusation.

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of the Board of Registered Nursing. She brought this action solely in her official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Karen L. Gordon, Deputy Attorney General.

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2005/04/28

2. Barbara Ann Trujillo (Respondent) is representing herself in this proceeding and has chosen not to exercise her right to be represented by counsel.

3. On or about August 31, 1977, the Board of Registered Nursing issued Registered Nurse License No. 282446 to Barbara Ann Trujillo (Respondent). The License expired on October 31, 2000, and has not been renewed.

JURISDICTION

4. Accusation No. 2002-101 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs,, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on January 16, 2002. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2002-101 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 2002-101. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 2002-101.

9. Respondent agrees that her Registered Nurse License is subject to discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

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DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 282446 issued to Respondent Barbara Ann Trujillo is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this term, Respondent shall submit completed fingerprint cards and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process. Respondent shall submit a recent 2" x 2" photograph of himself or herself within 45 days of the effective date of the final decision.

2. **Comply with Probation Program.** Respondent shall fully comply with the terms and conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of Respondent's compliance with the Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

3. **Report in Person.** Respondent, during the period of probation, shall appear in person at interviews/meetings as directed by the Board or its designated representatives.

4. **Residency or Practice Outside of State.** Periods of residency or practice as a registered nurse outside of California will not apply to the reduction of this probationary term. Respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state.

5. **Submit Written Reports.** Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain

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statements relative to Respondent's compliance with all the terms and conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

Provide Decision - Respondent shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

6. **Function as a Registered Nurse.** Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition.

7. **Employment Approval and Reporting Requirements.** Respondent shall obtain prior approval from the Board before commencing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Respondent shall provide a copy of this decision to her employer and immediate supervisor prior to commencement of any nursing or other health care related employment.

Respondent shall notify the Board in writing within seventy-two (72) hours after she obtains any nursing or other health care related employment, when such employment is not

as a registered nurse. Respondent shall notify the Board in writing within seventy-two (72) hours after she is terminated from any registered nursing, other nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination.

8. **Supervision.** Respondent shall obtain prior approval from the Board regarding Respondent's level of supervision and/or collaboration before commencing any employment as a registered nurse.

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

(a) **Maximum** - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) **Moderate** - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours Respondent works.

(c) **Minimum** - The individual providing supervision and/or collaboration has person-to-person communication with Respondent at least twice during each shift worked.

(d) **Home Health Care** - If Respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with Respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by Respondent with or without Respondent present.

9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If Respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

10. Complete a Nursing Course(s). Respondent shall comply with the appropriate requirement, as specified in the decision:

a) Respondent, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of her probationary term; or

b) Respondent shall be suspended from the practice of registered nursing, until she has enrolled in and successfully completed a course(s) relevant to the practice of registered nursing.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to Respondent after photocopying them for its records.

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1 **11. Cost Recovery.** Respondent shall pay to the Board costs associated with
2 its investigation and enforcement pursuant to Business and Professions Code Section 125.3 in the
3 amount of \$5,499.50. Respondent shall be permitted to pay these costs in a payment plan
4 approved by the Board, with payments to be completed no later than three months prior to the
5 end of the probation term.

6 **12. Violation of Probation.** If Respondent violates the conditions of her
7 probation, the Board after giving Respondent notice and an opportunity to be heard, may set
8 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's
9 license.

10 If during the period of probation, an accusation or petition to revoke probation has
11 been filed against Respondent's license or the Attorney General's Office has been requested to
12 prepare an accusation or petition to revoke probation against Respondent's license, the
13 probationary period shall automatically be extended and shall not expire until the accusation or
14 petition has been acted upon by the Board. Upon successful completion of probation,
15 Respondent's license will be fully restored.

16 **13. Physical Examination.** Within 45 days of the effective date of this
17 decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or
18 physician assistant, who is approved by the Board before the assessment is performed, submit an
19 assessment of Respondent's physical condition and capability to perform the duties of a
20 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
21 medically determined, a recommended treatment program will be instituted and followed by
22 Respondent with the physician, nurse practitioner, or physician assistant providing written
23 reports to the Board on forms provided by the Board.

24 If Respondent is determined to be unable to practice safely as a registered nurse,
25 the licensed physician, nurse practitioner, or physician assistant making this determination shall
26 immediately notify both the Probation Program and Respondent by telephone. Respondent shall
27 immediately cease practice and shall not resume practice until notified in writing by the
28 Probation Monitor that she may engage in the practice of registered nursing. During this period

1 of suspension, Respondent shall not engage in any practice for which a license issued by the
2 Board is required, until the Probation Monitor has notified Respondent that a medical
3 determination permits Respondent to resume practice.

4 14. **Participate in Treatment/Rehabilitation Program For Chemical**
5 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary
6 period or shall have successfully completed prior to commencement of probation a Board-
7 approved treatment/rehabilitation program of at least six months. As required, reports shall be
8 submitted by the program on forms provided by the Board. If Respondent has not completed a
9 Board-approved treatment/rehabilitation program prior to commencement of probation,
10 Respondent, within a reasonable time approved by the Board, shall be enrolled in a program. If a
11 program is not successfully completed within a reasonable time approved by the Board, the
12 Board shall consider Respondent in violation of probation.

13 Based on Probation Program recommendation, each week Respondent shall be
14 required to attend at least one, but no more than five 12-step recovery meetings or equivalent
15 (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as
16 approved and directed by the Board. If a nurse support group is not available, an additional 12-
17 step meeting or equivalent shall be added. Respondent shall submit dated and signed
18 documentation confirming such attendance to the Board during the entire period of probation.
19 Respondent shall continue with the recovery plan recommended by the treatment/rehabilitation
20 program or a licensed mental health examiner and/or other ongoing recovery groups.

21 15. **Abstain From Use of Psychotropic (Mood-Altering) Drugs.**
22 Respondent shall completely abstain from the possession, injection or consumption by any route
23 of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered
24 by a health care professional legally authorized to do so and are part of documented medical
25 treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by
26 the prescribing physician or dentist, a report identifying the medication, dosage, the date the
27 medication was prescribed, Respondent's prognosis, the date the medication will no longer be
28 required, and the effect on the recovery plan, if appropriate.

Respondent shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of Respondent's history of substance abuse and will coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis Respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

16. Submit to Tests and Samples. Respondent, at her expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. Respondent is responsible for keeping the Board informed of Respondent's current telephone number at all times. Respondent shall also ensure that messages may be left at the telephone number when she is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and Respondent shall be considered in violation of probation.

In addition, Respondent, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If Respondent has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board files a petition to revoke probation or an accusation, the Board may suspend Respondent from practice pending the final decision on the petition to revoke probation or the accusation.

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1 **17. Mental Health Examination.** Respondent shall, within 45 days of the
2 effective date of this decision, have a mental health examination including psychological testing
3 as appropriate to determine her capability to perform the duties of a registered nurse. The
4 examination must be performed by a psychiatrist, psychologist or other licensed mental health
5 practitioner approved by the Board. The examining mental health practitioner will submit a
6 written report of that assessment and recommendations to the Board. All costs are the
7 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
8 result of the mental health examination will be instituted and followed by the Respondent.

9 If Respondent is determined to be unable to practice safely as a registered nurse,
10 the licensed mental health care practitioner making this determination shall immediately notify
11 the Probation Program and Respondent by telephone. Respondent shall immediately cease
12 practice and may not engage in any practice for which a license issued by the Board is required,
13 until the Probation Monitor has notified Respondent that a mental health determination permits
14 Respondent to resume practice.

15 **18. Therapy or Counseling Program.** Respondent, at her expense, shall
16 participate in an on-going counseling program until such time as the Board releases her from this
17 requirement and only upon the recommendation of the counselor. Written progress reports from
18 the counselor will be required at various intervals.

19 **19. Severability Clause.** Each term and condition of probation contained
20 herein is a separate and distinct term and condition. If any term and condition of this Order, or
21 any application thereof, is declared unenforceable in whole, in part, or to any extent, the
22 remainder of this Order, and all other applications thereof, shall not be affected. Each term and
23 condition of this Order shall separately be valid and enforceable to the fullest extent permitted by
24 law.

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DATED: 10-29-02

ENDORSEMENT

DATED: 11-21-02

Karen L. Gordon
KAREN L. GORDON
Deputy Attorney General

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Exhibit A
Accusation No. 2002-101

BILL LOCKYER, Attorney General
of the State of California
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Deputy Attorney General
California Department of Justice
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Facsimile: (619) 645-2061
Attorneys for Complainant

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 2002-101

BARBARA ANN TRUJILLO
1042 North El Camino Real, Suite B 174
Encinitas, CA 92024

ACCUSATION

Registered Nurse License No. 282446

Respondent.

Complainant alleges:

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation solely in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.

2. On or about August 31, 1977, the Board of Registered Nursing ("Board") issued Registered Nurse License Number 282446 to Barbara Trujillo ("Respondent"). The license expired on October 31, 2000, and it has not been renewed.

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STATUTORY PROVISIONS

3. Section 2750 of the Business and Professions Code ("Code") provides, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 of the Nursing Practice Act (Bus. & Prof. Code, § 2700 et seq.).

4. Section 2764 of the Code provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

5. Section 125.3 of the Code provides that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

6. Section 2761(a) of the Code states that the Board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for unprofessional conduct.

7. Section 2762(a) of the Code states that in addition to other acts constituting unprofessional conduct within the meaning of the Nursing Practice Act (Bus. & Prof. Code, § 2700 et seq.), it is an act of unprofessional conduct for a person licensed under this chapter to obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

8. Section 2762(e) of the Code states that in addition to other acts constituting unprofessional conduct within the meaning of the Nursing Practice Act (Bus. & Prof. Code, § 2700 et seq.), it is an act of unprofessional conduct for a person licensed under this

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chapter to falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.

9. Health and Safety Code section 11350(a) provides that except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b), (c), or (g) of Section 11055, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison.

DRUGS

10. "Hydrocodone," a component of Vicodin, is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(J).

11. "Percocet," a brand of Oxycodone, is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(N).

FIRST CAUSE FOR DISCIPLINE

(Obtain, Possess, or Self-Administer a Controlled Substance)

12. Respondent is subject to disciplinary action under section 2761(a) in conjunction with section 2762(a) of the Code in that while employed as a registered nurse at Tri-City Medical Center, Oceanside, California, Respondent obtained, possessed, and self-administered Hydrocodone (Vicodin) and Percocet (Oxycodone), without a prescription therefor and without any other legal authority, in violation of Health and Safety Code section 11350(a).

SECOND CAUSE FOR DISCIPLINE

(False or Grossly Inconsistent Record Entries)

13. Respondent is subject to disciplinary action under section 2761(a) in conjunction with section 2762(e) of the Code in that while employed as a registered nurse at Tri-City Medical Center, Oceanside, California, Respondent made false, grossly incorrect, grossly

inconsistent, or unintelligible entries in a hospital, patient, or other record pertaining to Hydrocodone (Vicodin) and Percocet (Oxycodone), as follows:

a. Patient M. R. (#103759):

1. On or about January 1, 1998, at approximately 0156 hours, Respondent obtained one 325mg tablet of Percocet (Oxycodone) for administration to Patient M. R. (#103759). Thereafter, Respondent failed to document or record the administration of the medication on the patient's medication administration record, or to otherwise account for the disposition of the medication.

2. On or about January 1, 1998, at approximately 0400 hours, Respondent obtained one 325mg tablet of Percocet (Oxycodone) for administration to Patient M. R. (#103759). Thereafter, Respondent failed to document or record the administration of the medication on the patient's medication administration record, or to otherwise account for the disposition of the medication.

3. On or about January 1, 1998, at approximately 0534 hours, Respondent obtained one 325mg tablet of Percocet (Oxycodone) for administration to Patient M. R. (#103759). Thereafter, Respondent failed to document or record the administration of the medication on the patient's medication administration record, or to otherwise account for the disposition of the medication.

4. On or about January 1, 1998, at approximately 2015 hours, Respondent obtained two 500mg tablets of Hydrocodone (Vicodin) for administration to Patient M. R. (#103759). Thereafter, Respondent failed to document or record the administration of the medication on the patient's medication administration record, or to otherwise account for the disposition of the medication.

5. On or about January 1, 1998, at approximately 2136 hours, Respondent obtained two 500mg tablets of Hydrocodone (Vicodin) for administration to Patient M. R. (#103759). Thereafter, Respondent failed to document or record the administration of the medication on the patient's medication administration record, or to otherwise account for the disposition of the medication.

6. On or about January 2, 1998, at approximately 0023 hours, Respondent obtained two 500mg tablets of Hydrocodone (Vicodin) for administration to Patient M. R. (#103759). Thereafter, Respondent failed to document or record the administration of the medication on the patient's medication administration record, or to otherwise account for the disposition of the medication.

7. On or about January 2, 1998, at approximately 0258 hours, Respondent obtained one 500mg tablet of Hydrocodone (Vicodin) for administration to Patient M. R. (#103759). Thereafter, Respondent failed to document or record the administration of the medication on the patient's medication administration record, or to otherwise account for the disposition of the medication.

8. On or about January 2, 1998, at approximately 0356 hours, Respondent obtained one 500mg tablet of Hydrocodone (Vicodin) for administration to Patient M. R. (#103759). Thereafter, Respondent failed to document or record the administration of the medication on the patient's medication administration record, or to otherwise account for the disposition of the medication.

9. On or about January 2, 1998, at approximately 0540 hours, Respondent obtained one 500mg tablet of Hydrocodone (Vicodin) for administration to Patient M. R. (#103759). Thereafter, Respondent failed to document or record the administration of the medication on the patient's medication administration record, or to otherwise account for the disposition of the medication.

b. Patient J. N. (#719835):

1. On or about January 25, 1998, at approximately 0457 hours, Respondent obtained two 325mg tablets of Percocet (Oxycodone) for administration to Patient J. N. (#719835) without the order of a physician to do so. Thereafter, Respondent failed to document or record the administration of the medication on the patient's medication administration record, or to otherwise account for the disposition of the medication.

2. On or about January 25, 1998, at approximately 2237 hours, Respondent obtained two 325mg tablets of Percocet (Oxycodone) for administration to

1 Patient J. N. (#719835) without the order of a physician to do so. Thereafter, Respondent failed
2 to document or record the administration of the medication on the patient's medication
3 administration record, or to otherwise account for the disposition of the medication.

4 3. On or about January 26, 1998, at approximately 0300
5 hours, Respondent obtained two 325mg tablets of Percocet (Oxycodone) for administration to
6 Patient J. N. (#719835) without the order of a physician to do so. Thereafter, Respondent failed
7 to document or record the administration of the medication on the patient's medication
8 administration record, or to otherwise account for the disposition of the medication.

9 c. Patient J. B. (#315779):

10 1. On or about January 24, 1998, at approximately 2127
11 hours, Respondent obtained two 325mg tablets of Percocet (Oxycodone) for administration to
12 Patient J. B. (#315779) without the order of a physician to do so. Thereafter, Respondent failed
13 to document or record the administration of the medication on the patient's medication
14 administration record, or to otherwise account for the disposition of the medication.

15 2. On or about January 24, 1998, at approximately 2256
16 hours, Respondent obtained two 325mg tablets of Percocet (Oxycodone) for administration to
17 Patient J. B. (#315779) without the order of a physician to do so. Thereafter, Respondent failed
18 to document or record the administration of the medication on the patient's medication
19 administration record, or to otherwise account for the disposition of the medication.

20 3. On or about January 25, 1998, at approximately 0044
21 hours, Respondent obtained two 325mg tablets of Percocet (Oxycodone) for administration to
22 Patient J. B. (#315779) without the order of a physician to do so. Thereafter, Respondent failed
23 to document or record the administration of the medication on the patient's medication
24 administration record, or to otherwise account for the disposition of the medication.

25 4. On or about January 25, 1998, at approximately 0238
26 hours, Respondent obtained two 325mg tablets of Percocet (Oxycodone) for administration to
27 Patient J. B. (#315779) without the order of a physician to do so. Thereafter, Respondent failed

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to document or record the administration of the medication on the patient's medication administration record, or to otherwise account for the disposition of the medication.

5. On or about January 25, 1998, at approximately 0654 hours, Respondent obtained two 325mg tablets of Percocet (Oxycodone) for administration to Patient J. B. (#315779) without the order of a physician to do so. Thereafter, Respondent failed to document or record the administration of the medication on the patient's medication administration record, or to otherwise account for the disposition of the medication.

6. On or about January 25, 1998, at approximately 2005 hours, Respondent obtained two 325mg tablets of Percocet (Oxycodone) for administration to Patient J. B. (#315779) without the order of a physician to do so. Thereafter, Respondent failed to document or record the administration of the medication on the patient's medication administration record, or to otherwise account for the disposition of the medication.

7. On or about January 25, 1998, at approximately 2044 hours, Respondent obtained two 325mg tablets of Percocet (Oxycodone) for administration to Patient J. B. (#315779) without the order of a physician to do so. Thereafter, Respondent failed to document or record the administration of the medication on the patient's medication administration record, or to otherwise account for the disposition of the medication.

8. On or about January 26, 1998, at approximately 0016 hours, Respondent obtained two 325mg tablets of Percocet (Oxycodone) for administration to Patient J. B. (#315779) without the order of a physician to do so. Thereafter, Respondent failed to document or record the administration of the medication on the patient's medication administration record, or to otherwise account for the disposition of the medication.

9. On or about January 26, 1998, at approximately 0151 hours, Respondent obtained two 325mg tablets of Percocet (Oxycodone) for administration to Patient J. B. (#315779) without the order of a physician to do so. Thereafter, Respondent failed to document or record the administration of the medication on the patient's medication administration record, or to otherwise account for the disposition of the medication.

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1 10. On or about January 26, 1998, at approximately 0515
2 hours, Respondent obtained two 325mg tablets of Percocet (Oxycodone) for administration to
3 Patient J. B. (#315779) without the order of a physician to do so. Thereafter, Respondent failed
4 to document or record the administration of the medication on the patient's medication
5 administration record, or to otherwise account for the disposition of the medication.

6 PRAYER

7 WHEREFORE, Complainant requests that a hearing be held on the matters
8 herein alleged, and that following the hearing the Board issue a decision:

- 9 1. Revoking or suspending Registered Nurse License Number 282446, issued
10 to Barbara Trujillo;
11 2. Ordering Barbara Trujillo to pay the Board's reasonable costs of the
12 investigation and enforcement of this case pursuant to section 125.3 of the Code;
13 3. Taking such other and further action as deemed necessary and proper.
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15 DATED: 3/13/01

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18 *Ruth Ann Terry*
19 RUTH ANN TERRY, M.P.H., R.N.
20 Executive Officer
21 Board of Registered Nursing
22 Department of Consumer Affairs
23 State of California
24 Complainant
25
26
27
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